

HIGH COURT OF SINDH, CIRCUIT COURT AT HYDERABAD

Criminal Revision Application No.S-04 of 2019

Applicant: Mst. Rabia through Mr. Imdad Ali Unar,
Advocate.

Respondents No.1&2: Through Mr. Nazar Muhammad Memon, A.P.G.
Sindh.

Respondents No.3to7: Fazal Mehmood and others through Mr. Aghis-
u-Salam Tahirzada, Advocate.

Date of hearing: 24.08.2026.

Date of Judgment: 11.09.2026.

ORDER

RIAZAT ALI SAHAR, J. Through the instant Criminal Revision Application filed under Sections 435 and 439-A read with Section 561-A Cr.P.C., the applicant has called in question the order dated 16.01.2019 passed by the learned VIIth Additional Sessions Judge, Hyderabad, in Illegal Dispossession Complaint No.27/2018, whereby possession of Flat No.12, 3rd Floor, Madina Blessings, Risala Road, Hyderabad, was ordered to be restored to respondent No.3 Fazal Mehmood and others. The applicant seeks interference with the impugned order and restoration of possession in her favour.

2. The brief history of the case is that the applicant instituted Illegal Dispossession Complaint No.27/2018 under Sections 3 and 4 of the Illegal Dispossession Act, 2005, alleging that she was the lawful owner of Flat No.12, 3rd Floor, Madina Blessings, Hyderabad and that after matrimonial differences with respondent No.3, she was forcibly dispossessed from the premises on or around 19.09.2016. According to her case, she had obtained the property through registered title documents and that respondents thereafter retained possession of the flat and her belongings. During pendency of the complaint, the learned trial Court, by order dated 18.12.2018 under Section 7 of the Illegal Dispossession Act, directed restoration of possession of Flat No.12 to the applicant during pendency of the main complaint. The Court recorded that the applicant was reflected as registered owner of Flat No.12, whereas respondent No.3 was owner of Flat No.13 and that the material before it *prima facie* established unauthorized occupation of

the disputed premises. The said interim order was challenged before this Court in Criminal Revision Application No.S-221 of 2018. On 21.12.2018, operation of the order dated 18.12.2018 was suspended till the next date of hearing. Subsequently, by order dated 04.03.2019, this Court directed that possession be placed with the Additional Registrar as a neutral person, who was appointed Receiver to hold the property and prepare an inventory of the material lying therein.

3. Thereafter, Criminal Revision Application No.S-221 of 2018 was dismissed as not pressed on 07.12.2020. The main Illegal Dispossession Complaint ultimately proceeded to trial and, by judgment dated 14.03.2022, the learned VIIIth Additional Sessions Judge, Hyderabad, acquitted all the accused under Section 265-H (i) Cr.P.C. The learned trial Court found the allegation of forcible dispossession doubtful, principally observing that the complainant had not established through cogent and corroborative evidence the precise occurrence of dispossession or the respondents' physical occupation of the premises. The said judgment of acquittal has not been challenged before any forum. Consequently, the criminal proceedings concerning the alleged act of illegal dispossession have attained finality.

4. Learned counsel for the applicant contended that the applicant had been shown through registered title documents and the Property Register Card to be the owner of Flat No.12. He contended that the applicant was initially placed in possession pursuant to the order dated 18.12.2018 and that the subsequent taking of possession from her, pursuant to the order/letter dated 16.01.2019, was beyond the scope of the order passed by this Court on 21.12.2018 in Criminal Revision Application No.S-221 of 2018, which merely suspended operation of the earlier interim order. According to learned counsel, no positive direction had been issued by this Court for dispossession of the applicant and restoration of possession to the respondents. Learned counsel further contended that the subsequent order/letter dated 16.01.2019 caused prejudice to the applicant and that the proceedings ought to be considered in the light of the applicant's title documents and the earlier findings regarding her ownership. Learned counsel prayed that the impugned order be set aside and possession be restored to the applicant.

5. The learned A.P.G. Sindh contended that the matter has materially changed after the decision of the main Illegal Dispossession Complaint. The criminal trial has culminated in acquittal of all the accused and the finding regarding alleged illegal dispossession has not been successfully challenged. He, therefore, submitted that the question of criminal liability cannot now be reopened in the present revision merely on the basis of the earlier interim arrangement. He further submitted that the possession presently remains with the Receiver appointed by this Court and that the appropriate course, after culmination of the criminal proceedings, would be to restore possession to the person who was in possession at the time of institution of the direct complaint, while leaving questions of declaration, ownership and civil possession to the competent Civil Court.

6. Conversely, learned counsel for respondents No.3 to 7 supported the impugned order and contended that the complaint was founded upon a matrimonial dispute and that the prosecution ultimately failed to prove the alleged forcible dispossession. He contended that the learned trial Court, after recording evidence, specifically found the allegation doubtful and acquitted all the accused under Section 265-H (i) Cr.P.C. Learned counsel further contended that the respondents cannot be treated as illegal occupants merely on the basis of an interim order which was subsequently suspended and in view of the final judgment of acquittal. He contended that competing questions regarding ownership and possession cannot properly be determined in criminal revision proceedings and should be left to the competent Civil Court.

7. I have considered the submissions of learned counsel for the parties, learned Additional Prosecutor General, Sindh and examined the available record, including the earlier orders passed by this Court in Criminal Revision Application No.S-221 of 2018 and the judgment dated 14.03.2022 passed by the learned VIIIth Additional Sessions Judge, Hyderabad, has been examined.

8. There is no dispute that the criminal complaint culminated in judgment dated 14.03.2022 whereby all the accused were acquitted. The learned trial Court specifically held that the complainant had failed to produce cogent and corroborative evidence connecting the accused with the alleged act of forcible dispossession. The acquittal has not been

challenged before any competent forum and, therefore, for purposes of the present proceedings, the allegation of illegal dispossession cannot be treated as an established criminal act. At the same time, the final acquittal does not, by itself, amount to a final adjudication of civil title or declaration of ownership in favour of either party. The earlier proceedings also demonstrate that the parties have had continuing matrimonial/family and property disputes. The determination of any disputed question of title, declaration or permanent civil possession would therefore fall within the jurisdiction of the competent Civil Court.

9. For the sake of convenience, it is pertinent to observe that **the relief granted under Section 7 of the Illegal Dispossession Act, 2005, is in the nature of an interim relief during pendency of the proceedings and does not finally determine the question of title or entitlement to possession of the subject property.** In the present case, vide order dated 04.03.2019, the Additional Registrar of this Court was appointed as Receiver to take over and retain possession of the subject property during pendency of the matter and to prepare an inventory of the articles lying therein. The said arrangement was purely interim and custodial in nature and was made to preserve the subject matter of the proceedings in view of the rival claims of the parties; it did not amount to any final determination of their respective rights, title or entitlement to possession. Subsequently, the main Illegal Dispossession Complaint No.27/2018, instituted under Sections 3 and 4 of the Illegal Dispossession Act, 2005, was finally decided by the learned VIIIth Additional Sessions Judge, Hyderabad, vide judgment dated 14.03.2022, whereby all the accused/respondents were acquitted after the learned trial Court found that the complainant had failed to establish, through cogent and corroborative evidence, the alleged illegal dispossession at the hands of the accused. **The said judgment of acquittal has not been challenged before any competent forum and, therefore, has attained finality. In consequence thereof, the interim relief which formed the subject matter of the present Criminal Revision Application has ceased to survive and nothing remains to be adjudicated in this revision.** The instant Criminal Revision Application, being founded upon and arising out of an interim order passed during the pendency of the direct complaint, has thus become infructuous and is liable to be dismissed accordingly.

10. However, the dismissal of the revision as having become infructuous cannot leave the property indefinitely in the custody of the Receiver. The criminal proceedings having culminated in acquittal of the accused and the allegation of illegal dispossession having not been proved, the continuance of the Receiver's custody is no longer warranted. Accordingly, the Additional Registrar/Receiver of this Court is hereby directed to hand over possession of the subject property, namely Flat No.12, 3rd Floor, Madina Blessings, Risala Road, Hyderabad, to the respondent(s)/party who was in possession of the said property at the time of institution of the direct Illegal Dispossession Complaint No.27/2018, as reflected from the record and proceedings of the case. Before handing over possession, the Additional Registrar/Receiver shall verify the relevant record available with him and shall prepare and retain a proper inventory of the articles, documents and other movable property presently lying in the premises, so that the rights and interests of either party in respect thereof are duly safeguarded. The Additional Registrar/Receiver shall thereafter submit a compliance report to this Court for perusal in the Chamber.

11. It is, however, made clear that restoration of possession pursuant to the aforesaid direction is only a consequential measure following the culmination of the criminal proceedings and shall not be construed as a declaration, adjudication or recognition of final title, ownership or permanent right of possession in favour of the party receiving possession. The parties shall remain at liberty to approach the Civil Court of competent jurisdiction for determination of any dispute relating to declaration, ownership, title, possession etc. civil right or relief arising out of the subject property. Any such claim shall be decided by the competent Civil Court independently, in accordance with law and on the basis of the evidence brought before it.

12. Accordingly, the instant Criminal Revision Application is **dismissed** as having become infructuous, along with pending application, with no order as to costs.

J U D G E